

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

MICHAEL TATE,	)	
	)	
<i>Plaintiff,</i>	)	
	)	No. 08 CV 00253
-vs-	)	
	)	(Judge Lefkow)
CITY OF CHICAGO, et al.,	)	
	)	
<i>Defendants.</i>	)	

**AMENDED MOTION FOR APPOINTMENT OF SPECIAL  
ADMINISTRATOR AND TO SUBSTITUTE SPECIAL  
ADMINISTRATOR FOR PLAINTIFF MICHAEL TATE**

Petitioner Edna Tate, by counsel, moves the Court for entry of an order appointing her as special administrator for the estate of Michael Tate, her deceased son, for the purpose of effectuating the settlement of this action.

As grounds for this motion, petitioner states as follows:

1. Plaintiff Michael Tate agreed to settle this lawsuit in March of 2008 for a total amount of five thousand dollars. Mr. Tate died intestate before he could sign the settlement papers.
2. Edna Tate, the mother of Michael Tate, paid the funeral expenses, which total about five thousand dollars. Under Illinois law, petitioner is entitled to be reimbursed for these expenses before distribution of any assets of the estate to the heirs of Michael Tate.
3. The heirs of Michael Tate are his mother, Edna Tate, and his brother Winfred Tate, Homewood, Illinois, and Kenneth Tate, Atlanta, Georgia.

4. No petition for letters of office for the estate of Michael Tate has been filed.
5. The sole asset of the estate is this cause of action.
6. Appointment of a special representative by a federal court was approved by the Seventh Circuit in *Anderson v. Romero*, 42 F.3d 1121 (7th Cir. 1994), where, in the absence of an executor for the estate of the deceased plaintiff, the Court of appeals appointed plaintiff's counsel "as special administrators in substitution of the deceased." *Id.* at 1125. The Court of Appeals applied the same rule in *Ward v. Edgeton*, 59 F.3d 652 (7th Cir. 1995), where it directed the clerk to notify the next of kin of the deceased plaintiff that they could "apply to this court for appointment as [plaintiff's] special representative if they desire to prosecute the appeal." *Id.* at 653. These decisions were recently followed by another judge of this district in *Foster v. Elyea*, 06 CV 1974, where the court appointed the father of the deceased civil rights plaintiff as the special administrator. (Order, February 16, 2007, attached.)

Respectfully submitted,

/s/ Kenneth N. Flaxman

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## SWORN DECLARATION OF EDNA TATE

The undersigned, under penalties of perjury, certifies that the following statements are true:

1. My name is Edna Tate. My son Michael Tate died in March of 2008 without leaving a will.
2. I paid the expenses for Michael's funeral and those total about five thousand dollars.
3. Michael is survived by me and his two brothers, Winfred and Kenneth.
4. I am signing this sworn declaration in support of a request that I be appointed the special administrator of Michael's estate.

Further I state not.

Dated: April 17, 2008

  
Edna Tate

## **CERTIFICATE OF SERVICE**

I hereby certify that on the 30th day of April, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Liza M. Franklin, Chief ACC, 30 N LaSalle St, Ste 1400, Chicago, IL 60602, and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants: none.

/s/ Kenneth N. Flaxman

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